

LAWRENCE A. ORGAN (SBN 175503)
larry@civilrightsca.com
MARQUI HOOD (SBN 214718)
marqui@civilrightsca.com
CIMONE A. NUNLEY (SBN 326915)
cimone@civilrightsca.com
CALIFORNIA CIVIL RIGHTS LAW GROUP
332 San Anselmo Avenue
San Anselmo, California 94960
Telephone: (415)-453-7352
Facsimile: (415)-785-7352

J. BERNARD ALEXANDER (SBN 128307)
balexander@amflp.com
ALEXANDER MORRISON & FEHR LLP
1900 Avenue of the Stars, Suite 900
Los Angeles, California 90067
Telephone: (310) 394-0888
Facsimile: (310) 394-0811
Attorneys for Plaintiff,
OWEN DIAZ

MICHAEL RUBIN (SBN 80618)
mrubin@altber.com
JONATHAN ROSENTHAL (SBN 329638)
jrosenthal@altber.com
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, California 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

DUSTIN L. COLLIER (SBN 264766)
dcollier@collierlawsf.com
COLLIER LAW FIRM, LLP
240 Tamal Vista Blvd. Suite 100
Corte Madera, CA 94925
Telephone: (415) 767-0047
Facsimile: (415) 767-0037

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OWEN DIAZ,
Plaintiff,
v.
TESLA, INC. dba TESLA MOTORS, INC.;
Defendant.

Case No. 3:17-cv-06748-WHO

**DECLARATION OF MARQUI HOOD IN
SUPPORT OF PLAINTIFF'S REPLY
BRIEF RE: NOTICE OF NEW
EVIDENCE**

Trial Date: March 27, 2023
Complaint filed: October 16, 2017

1 I, MARQUI HOOD, hereby declare:

2 1. I am an attorney with the California Civil Rights Law Group, co-counsel for plaintiff
3 Owen Diaz in this action, and am licensed to practice law in the State of California. I am also
4 one of the attorneys of record for plaintiffs in a pending state court class action alleging racial
5 discrimination against Black employees in Tesla's Fremont factory, *Vaughn et al. v. Tesla, Inc.*,
6 Alameda Superior Court No. RG17882082 ("*Vaughn*"). I have personal knowledge of the facts
7 stated herein and if called upon to testify, I could and would competently testify thereto, except
8 as to those matters stated upon information and belief.
9

10 2. Attached hereto as **Exhibit A** is a true and correct copy of plaintiff Vaughn's Request
11 for Production of Documents (Set One) No. 18, served on Tesla, Inc. in *Vaughn* on December
12 13, 2017. In *Vaughn*, as in *Diaz*, Tesla objected to these discovery requests on the ground that it
13 lacked a centralized database for complaints and could only search for responsive documents by
14 conducting individualized email searches.
15

16 3. Attached hereto as **Exhibit B** is a true and correct copy of the Order re: Ruling on
17 Submitted Matter by Alameda County Superior Court Judge Evelio Grillo in *Vaughn*, dated
18 November 3, 2021. Judge Grillo's Order modifies his prior orders addressing Tesla's obligation
19 to respond to Vaughn's Request for Production No. 18. The November 3, 2021 Order states, in
20 relevant part: "The court modifies the order of 8/26/21 and ORDERS Tesla to produce any
21 anonymous complaints from persons who submitted a complaint regarding race harassment at
22 the Tesla factory. Such complaints are to include complaints referencing harassment and racial
23 slurs, complaints that contain or reference the words ni[**]er, swastikas or racial or racist
24 graffiti." In July 2023 Tesla produced [REDACTED] in the current
25 motion, buried in a 34,000-page document production.
26
27
28

1 4. Based on my familiarity with the case file in *Vaughn*, it is my understanding that the
 2 documents that Tesla submitted to this Court in response to plaintiff's Notice of New Evidence
 3 in Support of Renewed Motion for Mistrial and Motion for a New Trial were produced pursuant
 4 to the November 3, 2021 Order regarding Vaughn's Request for Production No. 18, attached
 5 hereto as **Exhibit B**.

7 5. During pre-trial discovery before the first trial in this case, plaintiff Diaz served
 8 discovery requests on Tesla seeking documents and information pertaining to [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]. Attached hereto as **Exhibit C** is a
 15 true and correct copy of Plaintiff Diaz's Request for Production of Documents (Set One) No. [REDACTED]
 16 [REDACTED], served on Tesla, Inc. on February 4, 2019.

18 6. After Tesla objected to producing any of those plainly relevant documents, Mr. Diaz
 19 sought to compel production. (Dkt. 88). Tesla took the position, in opposition, that it would be
 20 too burdensome to search for all responsive documents because it did not m [REDACTED]
 21 [REDACTED] and that locating responsive documents would require
 22 Tesla to search the work emails of every factory employee. However, Tesla offered a
 23 compromise. Based on Tesla's representation that any [REDACTED]
 24 [REDACTED]
 25 [REDACTED] to those HR Partners' email accounts. See Dkt. 88, p.4
 26 (representing that Tesla's HR Partners were the individuals "[REDACTED]
 27 [REDACTED] would be made"). A subsequent deposition taken by plaintiff Diaz of Tesla employee
 28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]. A true and correct copy of the
6 relevant excerpts from that deposition are attached here to as **Exhibit D** ([REDACTED] Depo., Oct. 24,
7 2019, at [REDACTED]).

8 7. Although Tesla suggests in its Response to Plaintiff's Notice of New Evidence at
9 1:10-11 and 4:10-12 that Mr. Diaz's employment at Tesla's Fremont Factory ended before
10 March 3, 2016 ([REDACTED]), in fact the record is undisputed that
11 Mr. Diaz continued working at the factory through March 13, 2016, 10 days after that date.
12 Attached hereto at **Exhibit E** is a true and correct copy of Trial Exhibit 61, an electronic copy of
13 Mr. Diaz's timesheets, which demonstrate at pp. 5-6 that in late February and March 2016, Mr.
14 Diaz worked at the factory between February 24-29, March 3-6, and March 12-13, 2016.
15 Although Exhibit 61 was not formally introduced into evidence, that was only because Tesla did
16 not dispute the dates of Mr. Diaz's employment.
17

18
19 8. Attached hereto as **Exhibit F** is a true and correct copy of plaintiff Diaz's deposition,
20 Volume 1, 48:1-51:3, [REDACTED]
21 [REDACTED].
22

23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct. Executed on August 18, 2023 in Los Angeles, California.
25

26 CALIFORNIA CIVIL RIGHTS LAW GROUP
27 ALEXANDER MORRISON + FEHR LLP
28 ALTSHULER BERZON LLP
COLLIER LAW FIRM, LLP



DATED: August 18, 2023

Attorney for Plaintiff OWEN DIAZ